

# Supreme Court of the United States

OCTOBER TERM, 1947

Nos. 184-9

IN THE MATTER

*of*

THE CHICAGO, ROCK ISLAND & PACIFIC  
RAILWAY COMPANY,  
*Debtor.*

THE CHICAGO, ROCK ISLAND & PACIFIC  
RAILWAY COMPANY,  
*Debtor-Petitioner,*

*v.*

METROPOLITAN LIFE INSURANCE COMPANY,  
as remaining member of the First and  
Refunding Group, CENTRAL HANOVER  
BANK AND TRUST COMPANY, *et al.*, as  
Trustees, THE NATIONAL CITY BANK OF  
NEW YORK, as Trustee, J. HAMILTON  
CHESTON, *et al.*, JOHN C. TRAPHAGEN,  
*et al.*, JAMES G. BLAINE, *et al.*,  
*Respondents.*

## BRIEF OF RESPONDENTS IN OPPOSITION TO PETITION OF DEBTOR FOR REHEARING OF ORDER DENYING ITS APPLICATION FOR WRIT OF CERTIORARI.

The anomalous petition for rehearing filed by the Debtor consists of a request that this Court call upon the Interstate Commerce Commission for "a definite statement of its present position". The petition does not in any way address itself to the merits of the case.

Similar requests by the Debtor (September 11, 1947 brief, pp. 6, 10), by the Preferred Stock Committee

(October 2, 1947 brief, pp. 9-19), and by Axelrod *et al.* (October 7, 1947 brief) were before this Court on October 20, 1947, when the Court rejected the requests by denying the three applications for writs of certiorari to review the confirmation of the Rock Island reorganization plan. Seven members of the Court concurred in the action by the Court (Mr. Justice Rutledge in a concurring opinion). Two Justices dissented. No ground is presented by the Debtor for the Court's reversing the action which it so recently took.

Furthermore, the Debtor ignores the fact that the Commission in its letter to this Court dated October 9, 1947 expressly stated that, while the Commission had not attempted to appraise the effect of changes in conditions so far as they might affect the provisions of the Plan, it understood that these "are developed at length in the record in the courts". The record before this Court showed affirmatively that there had been no such changes in conditions as would affect the fairness of the Rock Island Plan; and Mr. Justice Rutledge, in his concurring opinion, summarized the facts and concluded that there had been no changes in conditions "which, within the rulings of the *Rio Grande* cases, would require reopening of this 14-year-old reorganization and starting down the long road to consummation again". The issue concerning changes in conditions was developed in the record before this Court, it was an issue for decision by the Court, and the Court has decided it. Accordingly, there is no basis whatever for delaying the reorganization in order to await the expression of the views of the Interstate Commerce Commission on an issue which this Court has already decided.

We should also point out that the Debtor, in petitioning this Court for rehearing, represents stock which has ahead of it enormous claims of secured and unsecured creditors

which went into default over 14 years ago; that the claims of secured creditors will have an unsatisfied deficiency under the present Plan of over \$106,000,000; and that the claims of unsecured creditors will bring the total unsatisfied deficiency of creditors to more than \$145,000,000. In this situation, there can obviously be nothing left for the present stock. The Debtor therefore has no standing to seek further delay.

The Debtor's petition for rehearing should be denied.

Respectfully submitted,

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November 14, 1947.